

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)	
)	
COMPLAINANT)	
vs.)	CASE NO.
)	89-349
HENDERSON-UNION RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
)	
DEFENDANT)	

O R D E R

Before the Commission are several motions on procedural matters. On March 2, 1990, Kentucky Utilities Company ("KU") moved for authority to provide temporary service to Pyro Mining Company ("Pyro") and for an Order restraining Henderson-Union Rural Electric Cooperative Corporation ("Henderson-Union") from constructing any facilities to provide similar service pending a final decision in this matter. On March 7, 1990, Henderson-Union filed a response to KU's motion in which it moved for dismissal of this case, authority to provide temporary service to Pyro, and rescheduling the hearing in this matter. On the same day, KU supplemented its motion and further moved to reschedule the hearing.

We first address the parties' motions for authority to provide temporary service. Pyro will require 69 KV service at its Poplar Ridge mining site on or about June 15, 1990. Presently, KU

has an existing 69 KV line which terminates at the mining site. KU estimates that it could provide service to Pyro on 3 to 5 days notice. Henderson-Union, in contrast, has no facilities in the immediate area to provide Pyro with 69 KV service. It estimates that to construct the necessary facilities to provide that service will require approximately 3 weeks lead time. KU disputes that estimate contending that a minimum of 2 to 3 months is required by Henderson-Union to construct such facilities.

KU argues that neither the existing procedural schedule nor a revised procedural schedule would allow sufficient time for the Commission to properly decide this matter and ensure service to Pyro by June 15, 1990. To prevent this matter from interfering with meeting the customer's need for adequate service, KU argues that it should be authorized to provide temporary service to Pyro. No new construction would be required to provide such service and it could be provided at a total cost of only \$6200. For Henderson-Union to provide such service, KU contends, it would require the construction of approximately 7,700 feet of new 69 KV line and cost \$125,000. It would therefore be less expensive for KU to provide this temporary service to meet Pyro's needs rather than allow Henderson-Union to construct such facilities, especially if this case is decided in KU's favor.

Henderson-Union responds that authorization of temporary service for Pyro is premature. As Pyro does not need electric service until June 15, 1990, Henderson-Union maintains, it can provide timely service to Pyro if a decision in this matter is rendered no later than May 23, 1990. If the Commission is unable

to render a decision on the merits of this case by then, Henderson-Union requests that it be authorized to provide temporary service to Pyro.

The Commission finds that both utilities' motions for authority to provide temporary service are premature and should be denied. The Commission firmly believes that a decision can be rendered by May 23, 1990. Every effort will be made to expedite this matter. Such efforts should not be equated with a hasty or ill-considered decision. We intend to carefully and thoroughly weigh all evidence and arguments. If a decision cannot be made by that date, then the Commission will reconsider the parties' motions.

As to the motions for rescheduling of the hearing in this matter, the Commission finds that they should be granted and that this case should be heard on April 12, 1990. We further find that the procedural schedule should be modified to allow additional time for discovery.

The Commission defers ruling on Henderson-Union's motion to dismiss until KU has had adequate time to respond to it.

IT IS THEREFORE ORDERED that:

1. Henderson-Union's motion for authority to provide temporary service is denied.

2. KU's motion for authority to provide temporary service is denied.

3. KU is granted 10 days from the date of this Order to respond to Henderson-Union's motion to dismiss.

4. The formal hearing in this matter, originally scheduled for April 3, 1990, shall now begin at 9:00 a.m., Eastern Daylight Time, on Thursday, April 12, 1990, and continue until completed.

5. Each party may, on or before March 27, 1990, take the testimony of any person by deposition upon oral examination pursuant to notice or by agreement.

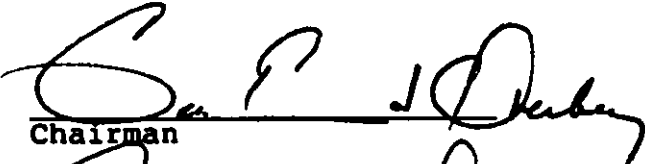
6. Each party may, on or before March 27, 1990, serve upon any other party a written request for admission, for purposes of this proceeding only, of the truth of any matter relevant to this proceeding set forth in the request that relates to statements or opinions of fact or of the application of law to fact. The matter is admitted unless within 10 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection. The form of the request for admission and the answer or objection thereto shall otherwise be governed by Kentucky Civil Rule 36.


7. Each party shall, on or before April 5, 1990, serve upon the other parties the written testimony of the witnesses which it expects to call at the formal hearing, copies of all exhibits to be introduced at that hearing, and all preliminary motions and objections, except objections to exhibits. All exhibits shall be appropriately marked.

8. Each party may submit a written brief within 10 days of the filing of the hearing transcript. Reply briefs may be submitted no later than 5 days after receipt of opponent's brief.

Done at Frankfort, Kentucky, this 12th day of March, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director